

Union Calendar No. 64

106TH CONGRESS
1ST Session

H. R. 1183

[Report No. 106-121, Part I]

A BILL

To amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes.

APRIL 29, 1999

Reported from the Committee on Science with an amendment

APRIL 29, 1999

Referred to the Committee on Commerce extended for a period ending not later than April 29, 1999

APRIL 29, 1999

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1999

Mr. SENSENBRENNER (for himself, Mr. BROWN of California, Mrs. MORELLA, Mr. GREEN of Wisconsin, Mr. COOK, Mrs. BIGGERT, and Mr. KUYKENDALL) introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 29, 1999

Additional sponsors: Mr. GARRY MILLER of California, Mr. CALVERT, Mr. EHLERS, Mr. GUTKNECHT, Mr. SHIMKUS, Mr. MANZULLO, Mr. PASTOR, and Mr. HOBSON

APRIL 29, 1999

Reported from the Committee on Science with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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A BILL

To amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Fastener Quality Act*
5 *Amendments Act of 1999”.*

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 *Section 2 of the Fastener Quality Act (15 U.S.C. 5401)*
8 *is amended to read as follows:*

9 **“SEC. 2. FINDINGS.**

10 *“The Congress finds that—*

11 *“(1) the United States fastener industry is a sig-*
12 *nificant contributor to the global economy, employing*
13 *thousands of workers in hundreds of communities;*

14 *“(2) the American economy uses billions of fas-*
15 *teners each year;*

16 *“(3) state-of-the-art manufacturing and im-*
17 *proved quality assurance systems have dramatically*
18 *improved fastener quality, so virtually all fasteners*

1 *sold in commerce meet or exceed the consensus stand-*
 2 *ards for the uses to which they are applied;*

3 *“(4) a small number of mismarked, misrepre-*
 4 *sented, and counterfeit fasteners do enter commerce in*
 5 *the United States; and*

6 *“(5) multiple criteria for the identification of*
 7 *fasteners exist, including grade identification mark-*
 8 *ings and manufacturer’s insignia, to enable pur-*
 9 *chasers and users of fasteners to accurately evaluate*
 10 *the characteristics of individual fasteners.”.*

11 **SEC. 3. DEFINITIONS.**

12 *Section 3 of the Fastener Quality Act (15 U.S.C. 5402)*
 13 *is amended to read as follows:*

14 **“SEC. 3. DEFINITIONS.**

15 *“As used in this Act, the term—*

16 *“(1) ‘accredited laboratory’ means a fastener*
 17 *testing facility used to perform end-of-line testing re-*
 18 *quired by a consensus standard or standards to verify*
 19 *that a lot of fasteners conforms to the grade identi-*
 20 *fication marking called for in the consensus standard*
 21 *or standards to which the lot of fasteners has been*
 22 *manufactured, and which—*

23 *“(A) meets the requirements of ISO/IEC*
 24 *Guide 25, including revisions from time to time,*

1 or another document approved by the Director
2 under section 10(c); and

3 “(B) has been accredited by a laboratory ac-
4 creditation body that meets the requirements of
5 ISO/IEC Guide 58, including revisions from
6 time to time, or another document approved by
7 the Director under section 10(d);

8 “(2) ‘consensus standard’ means the provisions
9 of a document that describes fastener characteristics
10 published by a consensus standards organization or a
11 Federal agency, and does not include a proprietary
12 standard;

13 “(3) ‘consensus standards organization’ means
14 the American Society for Testing and Materials, the
15 American National Standards Institute, the Amer-
16 ican Society of Mechanical Engineers, the Society of
17 Automotive Engineers, the International Organiza-
18 tion for Standardization, any other organization
19 identified as a United States consensus standards or-
20 ganization or a foreign and international consensus
21 standards organization in the Federal Register at 61
22 Fed. Reg. 50582–83 (September 26, 1996), and any
23 successor organizations thereto;

24 “(4) ‘Director’ means the Director of the Na-
25 tional Institute of Standards and Technology;

1 “(5) ‘distributor’ means a person who purchases
2 fasteners for the purpose of reselling them at wholesale
3 to unaffiliated entities or individuals (an original
4 equipment manufacturer and its dealers shall be con-
5 sidered affiliated entities for purposes of this Act);

6 “(6) ‘fastener’ means a metallic screw, nut, bolt,
7 or stud having internal or external threads, with a
8 nominal diameter of 6 millimeters or greater, in the
9 case of such items described in metric terms, or $\frac{1}{4}$
10 inch or greater, in the case of such items described in
11 terms of the English system of measurement, or a
12 load-indicating washer, that is through-hardened or
13 represented as meeting a consensus standard that
14 calls for through-hardening, and that is grade identi-
15 fication marked or represented as meeting a consensus
16 standard that requires grade identification marking,
17 except that such term does not include any screw, nut,
18 bolt, stud, or load-indicating washer that is—

19 “(A) part of an assembly;

20 “(B) in a package containing no more than
21 100 of any one screw, nut, bolt, stud, or load-in-
22 dicating washer at the time of sale;

23 “(C) produced and marked as ASTM A 307
24 Grade A, or a successor standard thereto;

1 “(D) produced in accordance with ASTM F
2 432, or a successor standard thereto;

3 “(E) specifically manufactured for use on
4 an aircraft if the quality and suitability of those
5 fasteners for that use has been approved—

6 “(i) by the Federal Aviation Adminis-
7 tration; or

8 “(ii) by a foreign airworthiness au-
9 thority as described in part 21.29, 21.500,
10 21.502, or 21.617 of title 14 of the Code of
11 Federal Regulations;

12 “(F) manufactured in accordance with a
13 fastener quality assurance system; or

14 “(G) manufactured to a proprietary stand-
15 ard, whether or not such proprietary standard
16 directly or indirectly references a consensus
17 standard or any portion thereof;

18 “(7) ‘fastener quality assurance system’ means—

19 “(A) a system that meets the requirements,
20 including revisions from time to time, of—

21 “(i) International Organization for
22 Standardization (ISO) Standard 9000,
23 9001, 9002, or TS16949;

24 “(ii) Quality System (QS) 9000
25 Standard;

1 “(iii) *Verband der Automobilindustrie*
2 *e. V. (VDA) 6.1 Standard; or*

3 “(iv) *Aerospace Basic Quality System*
4 *Standard AS9000; or*

5 “(B) *any fastener manufacturing system—*

6 “(i) *that has as a stated goal the pre-*
7 *vention of defects through continuous im-*
8 *provement;*

9 “(ii) *that seeks to attain the goal stated*
10 *in clause (i) by incorporating—*

11 “(I) *advance quality planning;*

12 “(II) *monitoring and control of*
13 *the manufacturing process;*

14 “(III) *product verification em-*
15 *bodied in a comprehensive written con-*
16 *trol plan for product and process char-*
17 *acteristics, and process controls (in-*
18 *cluding process influence factors and*
19 *statistical process control), tests, and*
20 *measurement systems to be used in*
21 *production; and*

22 “(IV) *the creation, maintenance,*
23 *and retention of electronic, photo-*
24 *graphic, or paper records required by*
25 *the control plan regarding the inspec-*

1 *tions, tests, and measurements per-*
2 *formed pursuant to the control plan;*
3 *and*

4 *“(iii) that—*

5 *“(I) is subject to certification in*
6 *accordance with the requirements of*
7 *ISO/IEC Guide 62, including revisions*
8 *from time to time (or another docu-*
9 *ment approved by the Director under*
10 *section 10(a)), by a third party who is*
11 *accredited by an accreditation body in*
12 *accordance with the requirements of*
13 *ISO/IEC Guide 61, including revisions*
14 *from time to time (or another docu-*
15 *ment approved by the Director under*
16 *section 10(b)); or*

17 *“(II) undergoes regular or ran-*
18 *dom evaluation and assessment by the*
19 *end user or end users of the screws,*
20 *nuts, bolts, studs, or load-indicating*
21 *washers produced under such fastener*
22 *manufacturing system to ensure that*
23 *such system meets the requirements of*
24 *clauses (i) and (ii);*

1 “(8) ‘grade identification marking’ means any
2 grade-mark or property class symbol appearing on a
3 fastener purporting to indicate that the lot of fas-
4 teners conforms to a specific consensus standard, but
5 such term does not include a manufacturer’s insignia
6 or part number;

7 “(9) ‘lot’ means a quantity of fasteners of one
8 part number fabricated by the same production proc-
9 ess from the same coil or heat number of metal as
10 provided by the metal manufacturer;

11 “(10) ‘manufacturer’ means a person who fab-
12 ricates fasteners for sale in commerce;

13 “(11) ‘proprietary standard’ means the provi-
14 sions of a document that describes characteristics of
15 a screw, nut, bolt, stud, or load-indicating washer
16 and is issued by a person who—

17 “(A) uses screws, nuts, bolts, studs, or load-
18 indicating washers in the manufacture, assem-
19 bly, or servicing of its products; and

20 “(B) with respect to such screws, nuts, bolts,
21 studs, or washers, is a developer and issuer of de-
22 scriptions that have characteristics similar to
23 consensus standards and that bear such user’s
24 identification;

1 “(12) ‘record of conformance’ means a record or
2 records for each lot of fasteners sold or offered for sale
3 that contains—

4 “(A) the name and address of the manufac-
5 turer;

6 “(B) a description of the type of fastener;

7 “(C) the lot number;

8 “(D) the nominal dimensions of the fastener
9 (including diameter and length of bolts or
10 screws), thread form, and class of fit;

11 “(E) the consensus standard or specifica-
12 tions to which the lot of fasteners has been man-
13 ufactured, including the date, number, revision,
14 and other information sufficient to identify the
15 particular consensus standard or specifications
16 being referenced;

17 “(F) the chemistry and grade of material;
18 and

19 “(G) the coating material and characteris-
20 tics and the applicable consensus standard or
21 specifications for such coating;

22 “(13) ‘represent’ means to describe one or more
23 of a fastener’s purported characteristics in a docu-
24 ment or statement that is transmitted to a purchaser
25 through any medium;

1 “(14) ‘Secretary’ means the Secretary of Com-
2 merce;

3 “(15) ‘specifications’ means the required charac-
4 teristics identified in the contractual agreement with
5 the manufacturer or to which a fastener is otherwise
6 produced, except that the term does not include pro-
7 prietary standards; and

8 “(16) ‘through-harden’ means heating above the
9 transformation temperature followed by quenching
10 and tempering for the purpose of achieving uniform
11 hardness.”.

12 **SEC. 4. SALE OF FASTENERS.**

13 Sections 5 through 7 of the Fastener Quality Act (15
14 U.S.C. 5404–7) are repealed, and the following new section
15 is inserted after section 3 of such Act:

16 **“SEC. 4. SALE OF FASTENERS.**

17 “(a) GENERAL RULE.—It shall be unlawful for a man-
18 ufacturer or distributor, in conjunction with a sale or offer
19 for sale of a fastener, to knowingly misrepresent or falsify—

20 “(1) the record of conformance for the lot of fas-
21 teners;

22 “(2) the identification, characteristics, prop-
23 erties, mechanical or performance marks, chemistry,
24 or strength of the lot of fasteners; or

25 “(3) the manufacturer’s insignia.

1 “(b) *REPRESENTATIONS.*—A direct or indirect ref-
 2 erence to a consensus standard to represent that a fastener
 3 conforms to particular requirements of the consensus stand-
 4 ard shall not be construed as a representation that the fas-
 5 tener meets all the requirements of the consensus standard.

6 “(c) *SPECIFICATIONS.*—A direct or indirect contrac-
 7 tual reference to a consensus standard for the purpose of
 8 identifying particular requirements of the consensus stand-
 9 ard that serve as specifications shall not be construed to
 10 require that the fastener meet all the requirements of the
 11 consensus standard.

12 “(d) *USE OF ACCREDITED LABORATORIES.*—In the
 13 case of fasteners manufactured solely to a consensus stand-
 14 ard or standards, end-of-line testing required by the con-
 15 sensus standard or standards, if any, for the purpose of
 16 verifying that a lot of fasteners conforms with the grade
 17 identification marking called for in the consensus standard
 18 or standards to which the lot of fasteners has been manufac-
 19 tured shall be conducted by an accredited laboratory.”.

20 **SEC. 5. MANUFACTURERS’ INSIGNIAS.**

21 Section 8 of the *Fastener Quality Act* (15 U.S.C. 5407)
 22 is redesignated as section 5 and is amended—

23 (1) by amending subsection (a) to read as fol-
 24 lows:

1 “(a) *GENERAL RULE.*—Unless the specifications pro-
 2 *vide otherwise, a fastener that is required by the applicable*
 3 *consensus standard or standards to bear an insignia identi-*
 4 *fying its manufacturer shall not be offered for sale or sold*
 5 *in commerce unless—*

6 “(1) *the fastener bears such insignia; and*

7 “(2) *the manufacturer has complied with the in-*
 8 *signia recordation requirements established under*
 9 *subsection (b).”*; and

10 (2) *in subsection (b), by striking “and private*
 11 *label” and all that follows and inserting “described in*
 12 *subsection (a).”*.

13 **SEC. 6. REMEDIES AND PENALTIES.**

14 *Section 9 of the Fastener Quality Act (15 U.S.C. 5408)*
 15 *is redesignated as section 6 and is amended—*

16 (1) *in subsection (b)(3), by striking “of this sec-*
 17 *tion” and inserting “of this subsection”*;

18 (2) *in subsection (b)(4), by inserting “arbitrate,”*
 19 *after “Secretary may”*;

20 (3) *by striking paragraph (3) of subsection (c);*
 21 *and*

22 (4) *in subsection (d)—*

23 (A) *by inserting “(1)” after “ENFORCE-*
 24 *MENT.—”*; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) *The Secretary, acting through the Director, shall*
4 *establish and maintain a hotline system to facilitate the*
5 *reporting of alleged violations of this Act, and the Secretary*
6 *shall investigate credible allegations reported through that*
7 *system.*”.

8 **SEC. 7. RECORDKEEPING REQUIREMENTS.**

9 *Section 10 of the Fastener Quality Act (15 U.S.C.*
10 *5409) is redesignated as section 7 and is amended by strik-*
11 *ing subsections (a) and (b) and inserting the following:*

12 *“Manufacturers shall retain the record of conformance*
13 *for fasteners for 5 years, on paper or in photographic or*
14 *electronic format in a manner that allows for verification*
15 *of authenticity. Upon request of a distributor who has pur-*
16 *chased a fastener, or a person who has purchased a fastener*
17 *for use in the production of a commercial product, the man-*
18 *ufacturer of the fastener shall make available information*
19 *in the record of conformance to the requester.*”.

20 **SEC. 8. RELATIONSHIP TO STATE LAWS.**

21 *Section 11 of the Fastener Quality Act (15 U.S.C.*
22 *5410) is redesignated as section 8.*

1 **SEC. 9. CONSTRUCTION.**

2 *Section 12 of the Fastener Quality Act (15 U.S.C.*
 3 *5411) is redesignated as section 9 and is amended by strik-*
 4 *ing “in effect on the date of enactment of this Act”.*

5 **SEC. 10. CERTIFICATION AND ACCREDITATION.**

6 *Sections 13 and 15 of the Fastener Quality Act (15*
 7 *U.S.C. 5412 and 14) are repealed, and the following new*
 8 *section is inserted at the end of that Act:*

9 **“SEC. 10. CERTIFICATION AND ACCREDITATION.**

10 *“(a) CERTIFICATION.—A person publishing a docu-*
 11 *ment setting forth guidance or requirements for the certifi-*
 12 *cation of manufacturing systems, including fastener manu-*
 13 *facturing systems, by an accredited third party may peti-*
 14 *tion the Director to approve such document for use as de-*
 15 *scribed in section 3(7)(B)(iii)(I). The Director shall act*
 16 *upon a petition within 180 days after its filing, and shall*
 17 *approve such petition if the document provides equal or*
 18 *greater rigor and reliability as compared to ISO/IEC Guide*
 19 *62.*

20 *“(b) ACCREDITATION.—A person publishing a docu-*
 21 *ment setting forth guidance or requirements for the ap-*
 22 *proval of accreditation bodies to accredit third parties de-*
 23 *scribed in subsection (a) may petition the Director to ap-*
 24 *prove such document for use as described in section*
 25 *3(7)(B)(iii)(I). The Director shall act upon a petition with-*
 26 *in 180 days after its filing, and shall approve such petition*

1 *if the document provides equal or greater rigor and reli-*
 2 *ability as compared to ISO/IEC Guide 61.*

3 “(c) *LABORATORY ACCREDITATION.*—A person pub-
 4 *lishing a document setting forth guidance or requirements*
 5 *for the accreditation of laboratories may petition the Direc-*
 6 *tor to approve such document for use as described in section*
 7 *3(1)(A). The Director shall act upon a petition within 180*
 8 *days after its filing, and shall approve such petition if the*
 9 *document provides equal or greater rigor and reliability as*
 10 *compared to ISO/IEC Guide 25.*

11 “(d) *APPROVAL OF ACCREDITATION BODIES.*—A per-
 12 *son publishing a document setting forth guidance or re-*
 13 *quirements for the approval of accreditation bodies to ac-*
 14 *credit laboratories may petition the Director to approve*
 15 *such document for use as described in section 3(1)(B). The*
 16 *Director shall act upon a petition within 180 days after*
 17 *its filing, and shall approve such petition if the document*
 18 *provides equal or greater rigor and reliability as compared*
 19 *to ISO/IEC Guide 58.”.*

20 **SEC. 11. APPLICABILITY.**

21 *At the end of the Fastener Quality Act, insert the fol-*
 22 *lowing new section:*

23 **“SEC. 11. APPLICABILITY.**

24 *“The requirements of this Act shall be applicable only*
 25 *to fasteners fabricated 180 days or more after the date of*

1 *the enactment of the Fastener Quality Act Amendments of*
2 *1999, except that if a manufacturer or distributor of fas-*
3 *teners fabricated before that date prepares a record of con-*
4 *formance for such fasteners, representations about such fas-*
5 *teners shall be subject to the requirements of this Act.”.*

6 **SEC. 12. EFFECTIVE DATE.**

7 *Section 4(d) of the Fastener Quality Act, as added by*
8 *section 4 of this Act, shall take effect 2 years after the date*
9 *of enactment of this Act.*